

## TITLE V

### JUDICIARY

#### **Chapter 1. Appointment and Retention of Judges**

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**CHAPTER 1. APPOINTMENT AND RETENTION OF JUDGES****Section 5-1-1. Qualifications.**

Individuals considered and appointed by the Pueblo Council shall possess the following minimum qualifications:

- (1) Be a United States citizen;
- (2) Have never been convicted of a felony;
- (3) Be of high moral character and integrity;
- (4) Have a juris doctorate degree from an accredited law school, with a minimum of one (1) year of judicial experience or related law practice;
- (5) Shall be licensed through a state bar examination and be in good standing with a state bar;
- (6) Shall be knowledgeable of the Pueblo of Laguna and United States Constitutions, relevant federal and state laws including:
  - (a) Title 25 U.S.C. and the Major Crimes Act;
  - (b) Relevant jurisdictional issues;
  - (c) Knowledge of Pueblo of Laguna laws and ordinances and customs and traditions preferred, but not mandatory.

**Section 5-1-2. Appointment and tenure of judges.**

A. The Pueblo Council shall appoint a judge for a term not to exceed three (3) years. The Council shall review the judge's performance annually. At the end of the judge's term of appointment, the Council may reappoint the judge for another term, not to exceed three (3) years.

B. For appointment and reappoint of judges, the Council may authorize the Governor to negotiate a salary within the ranges attached hereto which may be modified from time to time by Council.

C. The Pueblo Judge reports to and is under the direct administrative supervision of the Governor.

D. In January of each year, the Governor shall appoint a presiding judge who will have overall administrative responsibility for the court.

E. Each January, the presiding judge shall present an annual report including a caseload study to the Council. The caseload study shall include, but not be limited to:

- (1) The number of civil and criminal cases filed in Pueblo Court;
- (2) The number cases disposed of;
- (3) The number of cases pending at the end of the calendar year;

- (4) The number of days during the preceding period of review that the judge was absent from the bench.

F. During this performance review, the Council shall review the budget and the administrative operations of the court and by simple majority vote determine whether the judge is performing the judicial and administrative duties and functions in a competent manner. The Pueblo Council may determine that the judge is not performing the functional duties and may elect not to reappoint the judge for another term.

### **Section 5-1-3. Duties and functions.**

The Pueblo Judge is responsible for the efficient functioning of the judicial system and the administration of justice. The civil and criminal jurisdiction of the Pueblo Court is authorized by the Pueblo of Laguna Constitution, resolutions, ordinances, regulations, custom and traditions. The purpose of the Pueblo Judicial System is to preserve the health and welfare, peace and security of all those residing on the Pueblo. All matters shall be heard in a fair, speedy and impartial manner. The duties shall include, but not be limited to the following:

- (1) Administration of the judicial system of the Pueblo of Laguna, the court processes and the support staff and probation services;
- (2) Preparation, review and submittal of the annual budgets in compliance with Pueblo and Federal P.L. 93-638 Regulation;
- (3) To meet all requirements for maintenance of records and accounting of funds and expenditures of Pueblo, federal or state resources, including grants;
- (4) Implementation of all civil, and law and order codes and ordinances, customs and traditions through judicial proceedings;
- (5) To provide adequate notice and timely hearing of all motions and trials on the merit; issuance of orders and judgments and the enforcement of all civil and criminal orders and judgments;
- (6) Implementation of mediation and village and family meetings as an alternative to legal proceedings;
- (7) Preparation of all necessary notices and documents on appeals for consideration and determination by the Pueblo Court of Appeals;
- (8) Coordination of judicial activity with the village Mayordomos, probation officers, police department, federal, state and Pueblo prosecutors, public defenders and other pertinent Pueblo entities;
- (9) Identification of existing codes for amendment and new codes needed in criminal and civil areas that address current needs of the Pueblo for presentation to the Council;
- (10) Responds to the directives of the Governor and requests from the executive staff, staff officers and the Council on governmental and legislative projects.

**Section 5-1-4. Suspension and removal.**

A. Prior to the expiration of a judge's term of office, the Council may remove from office or temporarily suspend from office any judge who is convicted of a felony or is found to have grossly neglected the duties of the office;

B. For removal or suspension, written notice of charges must be given to the judge. The charges shall contain a statement of facts and must be sworn to by the complainant. Charges may be filed by any Pueblo member or Council member for alleged felony convictions or gross neglect of office.

C. A complaint shall be filed with the Pueblo Secretary, who shall provide notice to the executive staff within five (5) working days. The executive staff shall convene to determine whether there is sufficient factual basis to present the matter to the Council for hearing.

D. If executive staff determines a hearing is to be held, then the following procedure shall be followed:

- (1) The Governor shall schedule a special Council meeting;
- (2) The Pueblo Secretary shall serve the Pueblo Judge with written notice at least twenty (20) days prior to the hearing;
- (3) The Council shall require the attendance of such witnesses as may be requested by the judge and complainant;
- (4) All proceeding shall be recorded and documented, including all testimony presented by those who were present at the Council hearings;
- (5) The judge shall have the right to testify and call witnesses and present evidence in his or her own behalf or to have legal representation;
- (6) The Council by majority vote shall determine to remove, suspend, reinstate or exonerate with retroactive pay to be determined by the Council.

**CHAPTER 2. PUEBLO COURT AUTHORITY TO ADOPT RULES****Section 5-2-1. Authority and delegation.**

The Pueblo of Laguna Constitution vests power in the Pueblo Council to promulgate rules for the operation of the Pueblo's courts. The Council has determined, by resolution, that the Pueblo's and its citizens' interests will be best served by a delegation of rule-making authority to the Pueblo Court and the Pueblo Court of Appeals.

**Section 5-2-2. Promulgation of Pueblo Court rules.**

The Pueblo Court may promulgate such procedural rules as may be necessary for the sound and timely resolution of any cases that are within its jurisdiction.

**Section 5-2-3. Rule-making process.**

A. *Proposal.* The Chief Judge of the Pueblo Court shall have the authority to propose Pueblo Court procedural rules.

B. *Notice and comment.* The Chief Judge of the Pueblo Court shall give notice of any rule proposal to all lawyers authorized to practice in the Pueblo Court. Such notice shall provide the text of any rule proposal and include a copy of this chapter. Such notice shall inform the recipient that he or she has thirty (30) calendar days to submit any comments on the proposal and that comments shall be submitted to the Chief Judge of the Pueblo Court. The notice shall state specifically the date on which the comment period shall expire. The substance of any submitted comment notwithstanding, the Chief Judge of the Pueblo Court shall have no obligation to make any change to the proposed or revised rule.

C. *Pueblo Court of Appeals review.* No Pueblo Court rule shall be effective unless and until it is submitted to and approved by the Pueblo Court of Appeals.

- (1) *Compilation.* As soon as practical after the close of the comment period, the Chief Judge of the Pueblo Court shall draft a brief report that substantively responds to all comments received through the notice and comment process. He or she shall then compile into a single and well organized package:
  - (i) The text of the proposed rule;
  - (ii) All comments received during the specified comment period; and
  - (iii) His or her brief report substantively responding thereto.
- (2) *Submission.* Within seven (7) days of the compilation of the proposal package, the Chief Judge of the Pueblo Court shall submit such package to the Chief Judge of the Pueblo Court of Appeals and request approval of the proposed rule.
- (3) *Approval.*
  - (a) *Consideration.* Within thirty (30) days of receiving a submission pursuant to subsection C.(1) of this section, the court of appeals shall convene to consider the rule proposal. As part of its consideration, the court of appeals may consult with the Chief Judge of the Pueblo Court, any lawyer authorized to practice in the Pueblo Court, or any other person that may have useful input as to the propriety of the rule proposal.
  - (b) *Action.* Upon completing its consideration, the court of appeals shall issue an order that either:
    - (i) Adopts the proposed rule as submitted;
    - (ii) Adopts the proposed rule as modified; or
    - (iii) Rejects the proposed rule. Rules shall be adopted only if the court of appeals concludes that such rule will serve the expeditious and fair resolution of disputes in the Pueblo Court without harm to any substantive rights of future litigants.

**Section 5-2-4. Legal challenge to approved rules.**

Any person who alleges that the application of an approved Pueblo Court rule adversely affected his or her substantive rights may challenge the rule and its application on appeal from a final judgment of the Pueblo Court. Such appeals shall be made in compliance with the Pueblo's Rules of Procedure for the Pueblo Court of Appeals.

**Section 5-2-5. Pueblo Council action.**

Any Pueblo Court rule approved and made effective by the Pueblo Court of Appeals pursuant to this chapter may, be subsequently amended, modified or nullified by resolution of the Pueblo Council.

**CHAPTER 3. ADMISSION, PRACTICE AND DISCIPLINE OF ATTORNEYS AND ADVOCATES****Section 5-3-1. Admission to practice.**

A. Upon application, the Pueblo Secretary may issue a one-year authorization to an attorney who:

- (1) Is admitted to practice law in a state, the District of Columbia or another Pueblo or Tribal Nation; and
- (2) Is in good standing to practice law in the state, the District of Columbia or Pueblo or Tribal Nation in which the attorney is licensed; and
- (3) Satisfies all authorization requirements as set forth in this chapter.

B. Upon application, the Pueblo Secretary may issue a one-year advocate authorization to any person who is not a licensed attorney but who has one (1) year related legal experience as an attorney or advocate or has one (1) year legal training and who has not been convicted of a felony within the past three (3) years.

C. Any applicant for an attorney or advocate authorization shall acknowledge that he/she knows and shall abide by the Pueblo of Laguna Constitution, Law and Order Code, and all other Pueblo laws and ordinances and shall consent to the jurisdiction of the Pueblo Court regarding his or her practice before the Pueblo Courts and discipline; and all attorney applicants shall provide a certification from the Clerk of the State Supreme Court, District of Columbia, or other Pueblo or Tribal Nation's bar association/courts verifying that the applicant is duly admitted to practice law in that jurisdiction and is in good standing.

D. Prior to the issuance of authorization to practice, an attorney applicant shall pay an annual fee of one hundred dollars (\$100.00) and an advocate applicant shall pay an annual fee of fifty dollars (\$50.00); reauthorization fees shall be imposed and collected by January 30th of each year by the Pueblo Secretary; application for renewal of authorization shall be made by the applicant by January 15th of each year; the annual fees may be amended from time to time by the Pueblo Council.

E. As a condition of the privilege as an attorney or advocate to practice before the Pueblo Courts, the presiding judge may impose a pro bono representation requirement not to exceed twenty (20) hours annually.

**Section 5-3-2. Limited privilege to practice.**

A. A law professor or other law school faculty may practice as an attorney before the court, to the extent necessary to supervise clinical law students in an accredited law program approved by the presiding judge. Similarly, a clinical law student may practice before the Pueblo Court while under the direct supervision of a law professor or other law school faculty.

B. An attorney or advocate duly licensed and in good standing in another state or tribal jurisdiction may appear for a single Pueblo Court matter annually by filing a motion with the Pueblo Court to appear pro hac vice in the matter and by paying an administrative fee of twenty-five dollars (\$25.00) to the Pueblo Court.

**Section 5-3-3. Discipline and revocation of license.**

A. Any attorney or advocate duly authorized to practice in the Pueblo Courts may be disciplined by the presiding judge for failure to abide by any lawful court order or negligent representation of a client or any violations of any code of ethics applicable to the attorney or advocate under his or her state or tribal license; the presiding judge may apply a fine not to exceed one hundred dollars (\$100.00) for any one (1) practice infraction.

B. The presiding judge may revoke the authorization of any attorney or advocate upon the finding that the attorney or advocate purposely or knowingly failed to abide by a lawful Pueblo Court order or was grossly negligent in the representation of a client or engaged in gross violations of any code of ethics as noted in subsection A. above; any authorization revocation may be appealed to the Pueblo Court of Appeals under the rules and procedures of the court of appeals as if the revocation was a final judgment of the Pueblo Court.

**Section 5-3-4. Applicability and severability.**

Nothing in this chapter shall be construed to limit a party in a civil or criminal matter from having a spokesperson or next of friend participate in the court proceedings with them as long as that person is not a licensed attorney or advocate who is receiving compensation for appearing with or assisting the party.



**PUEBLO OF LAGUNA  
OFFICE OF THE SECRETARY  
P.O. BOX 194  
LAGUNA, NEW MEXICO 87026  
(505) 552-6654 FAX (505)552-6941**

**ATTORNEY APPLICATION FOR ADMISSION TO PRACTICE  
BEFORE THE PUEBLO OF LAGUNA COURTS**

Please state:

1. Full Name: \_\_\_\_\_
2. Date and Place of Birth: \_\_\_\_\_
3. Social Security Number: ; \_\_\_\_\_
4. Mailing Address: (Street or P.O. Box): \_\_\_\_\_
5. Telephone Numbers: (Home) \_\_\_\_\_ (Office) \_\_\_\_\_
6. Email: \_\_\_\_\_
7. Law Study:  
    Name of School and Location: \_\_\_\_\_  
    Dates of Attendance: \_\_\_\_\_  
    Degree: \_\_\_\_\_
8. Name all jurisdictions and courts in which you have been admitted to practice law with dates of admission.  

(a) Jurisdiction	(b) Courts	(c) Date of Admission
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9. Attach hereto a Certificate of Good Standing from a current bar membership (State, Tribal, or District of Columbia).
10. Attach hereto a Character and Fitness Report and Letter of Membership if issued by current bar association/jurisdiction.
11. Fee in the amount of \$100.00 is enclosed herein.

**REQUIRED STATEMENTS:**

- A. I am the applicant for admission to practice referred to; I have carefully read the questions in the foregoing and have answered them truthfully, fully and completely, without mental reservations of any kind. I fully understand that failure to make full disclosure of any fact or information called for may result in the denial of my application.

I further fully understand that I have a continuing obligation to keep the Pueblo Secretary advised of any additional information that would be pertinent to this application or my qualifications on a continuing basis.

B. I hereby certify that I shall abide by the Code of Professional Responsibility of the American Bar Association in all my dealings with clients I am representing before the Pueblo Courts and in all my appearances and practice before the Pueblo Courts.

C. I hereby certify that if I am admitted to practice before the Pueblo Courts, I shall abide by the Laguna Constitution, the Law and Order Code of the Pueblo of Laguna and all other Laguna laws and ordinances and the rules and procedures of the Courts; and I further do hereby consent to the general civil jurisdiction of the Pueblo of Laguna and the requirements regarding the admission, practice and discipline of attorneys as set forth in Section 5-3-1, et seq. and all rules and regulations lawfully promulgated thereunder.

I hereby declare under penalty of perjury that the foregoing answers and statements are true and correct.

State of \_\_\_\_\_ )  
 )ss.

County of \_\_\_\_\_ )

Signature of Applicant: \_\_\_\_\_

Executed on (date): \_\_\_\_\_

At (street & number): \_\_\_\_\_

(City & State): \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Notary Public: \_\_\_\_\_

My Commission expires on: \_\_\_\_\_

Approved:

\_\_\_\_\_  
Pueblo Secretary, Pueblo of Laguna

## JUDICIARY

### TITLE V HISTORY

**Title V, Chapter 1, Appointment and Retention of Judges**, was enacted by Ordinance No. 300-90 on December 4, 1990, which superseded Section 3 of the Law and Order Code of May 1, 1968. Ordinance No. 300-90 was amended by Resolution No. 30-92 on May 12, 1992. The 1992 amendment was superseded by Second Amended Ordinance No. 300-90, enacted on January 22, 2002.

**Ordinance No. 300-90 of December 4, 1990 reads as follows:**

WHEREAS, Article V, Section 1 - 7 of the Revised Constitution of the Pueblo of Laguna, dated June 6, 1984, establishes a judicial system and defines the jurisdiction and procedures the Laguna Pueblo Court shall exercise including civil and criminal jurisdiction over members and nonmembers who reside upon or enter the lands of the Pueblo. The Pueblo Court shall operate under such rules of procedure as provided in the Constitution and the Ordinances of the Pueblo and as may be consistent with the laws of the United States applicable to the Pueblo of Laguna, and

WHEREAS, Article V, Section 2 of the Pueblo of Laguna Constitution authorizes the Pueblo Council to appoint such number of judges as required and such appointments shall be by Pueblo Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Pueblo of Laguna hereby adopts the following: [TEXT OF ORDINANCE]

**Resolution No. 30-92 reads as follows:**

WHEREAS, the Council of the Pueblo of Laguna on December 4, 1990, enacted Ordinance No. 300-90 for Appointment of Judges, consistent with Article V, Sections 1 through 7 of the Revised Constitution of the Pueblo of Laguna, dated June 6, 1984, which established a Judicial System and authorizes the Tribal Council to appoint Tribal Judges, and;

WHEREAS, Ordinance No. 300-90 supersedes Section 3, of the Law and Order Code of May 1, 1968, and;

WHEREAS, the Council has reviewed Ordinance No. 300-90.

NOW, THEREFORE, BE IT RESOLVED, that Tribal Council approves of Ordinance No. 300-90, as amended, Appointment of Judges. [TEXT OF ORDINANCE]

**Second Amended Ordinance No. 300-90 of January 22, 2002 reads as follows:**

WHEREAS, Article V, Section 1 - 7 of the Revised Constitution of the Pueblo of Laguna, dated June 6, 1984, establishes a judicial system and defines the jurisdiction and procedures the Laguna Pueblo Court shall exercise including civil and criminal jurisdiction over members and nonmembers who reside upon or enter the Lands of the Pueblo. The Pueblo Court shall operate under such rules of procedure as provided in the Constitution and the Ordinances of the Pueblo and as may be consistent with the laws of the United States applicable to the Pueblo of Laguna, and

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WHEREAS, Article V, Section 2 of the Pueblo of Laguna Constitution authorizes the Pueblo Council to appoint such number of judges as required and such appointments shall be by Pueblo Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Pueblo of Laguna hereby adopts the following: [TEXT OF ORDINANCE]

WHEREAS, this Ordinance, as amended, shall supercede Ordinance No. 300-90 of May 12, 1992.

**Title V, Chapter 2, Pueblo Court Authority to Adopt Rules**, was enacted by Resolution 55-05 on December 21, 2005 as Ordinance 100-05.

WHEREAS, the Laguna Constitution vests authority in the Pueblo Council to promulgate rules for the handling of all cases, both civil and criminal, in our Tribal Court;

WHEREAS, the Chief Judge of the Tribal Court presides over the lawful operation of our Tribal Court;

WHEREAS, the Pueblo of Laguna Court of Appeals is the superintending court of the Pueblo's judicial system, with the power to review actions of the Tribal Court;

WHEREAS, the Chief Judge of the Tribal Court and the Laguna Court of Appeals are well suited to craft appropriate rules for the handling of all cases, both civil and criminal, brought before our judicial bodies;

WHEREAS, delegation of Council authority to propose, promulgate, and approve appropriate rules for the operation of our judicial system would be a proper allocation of Pueblo governmental roles; and

WHEREAS, the Council concludes that adoption of the proposed Promulgation of Tribal Court Procedural Rules Ordinance would serve the best interests of the Pueblo and its citizens.

NOW THEREFORE BE IT RESOLVED, that the Pueblo Council of the Pueblo of Laguna hereby approves and enacts the Promulgation of Tribal Court Procedural Rules Ordinance, included herewith as "Attachment A." [TEXT OF ORDINANCE]

**Title V, Chapter 3, Admission, Practice and Discipline of Attorneys and Advocates**, was enacted on January 20, 1970 and was superceded by Ordinance No. 100-03 on March 17, 2003.

### **The January 20, 1970 Ordinance reads as follows:**

WHEREAS, Article V, Section 5 of the Amended Constitution of the Pueblo of Laguna approved November 10, 1958, provides that parties before the Pueblo of Laguna Court do not have the right to be represented by an Attorney at Law unless rules have been adopted by the Council permitting such representation and prescribing the conditions under which Attorneys at Law may practice before the Court; and

## JUDICIARY

WHEREAS, Section 10 of the Pueblo of Laguna Law and Order Code, dated May 1, 1968, provides that professional attorneys shall not be allowed to practice in the Laguna Court except as shall be required by the Laws of the United States; and

WHEREAS, Title II of the Act of April 11, 1968, (84 Stat. 77 et seq. 25 U.S.C.A., Sec. 1301 et seq.) provides that a person subject to the jurisdiction of Indian Tribal Court shall have the right in a criminal proceeding to have, at his own expense, the assistance of counsel for his defense; and

WHEREAS, the said Act also guarantees the privilege of the Writ of Habeas Corpus, to test detainment by order of an Indian Tribe; and

WHEREAS, in view of the said provisions of said Act, it appears that professional attorneys may, in limited circumstances, lawfully represent persons in the Laguna Tribal Court and before the Staff, acting as the Court of Appeals; and

WHEREAS, the Council has decided that rules must be adopted and enacted governing the admission, practice and discipline of attorneys practicing law before the Pueblo of Laguna Court and Court of Appeals, in those matters where such practice is allowed by Federal law;

NOW, THEREFORE, IT IS DULY ENACTED BY THE COUNCIL OF THE PUEBLO OF LAGUNA AS FOLLOWS: [TEXT OF ORDINANCE]

### **Ordinance 100-03 reads as follows:**

WHEREAS, Article V, Section 6 of the 1984 Revised Constitution of the Pueblo of Laguna authorizes the Laguna Council to regulate the terms and conditions under which attorneys and advocates may practice before the Courts of the Pueblo of Laguna; and

WHEREAS, the existing Attorney and Advocate Ordinance was adopted on January 20, 1970 and is out of date and in need of complete revision and hereby is wholly superceded by the following new Attorneys and Advocate Ordinance; and

WHEREAS, the adoption of this Ordinance shall not adversely effect the licenses of those attorneys and advocates duly admitted to practice before the Laguna Court as of this date for the year 2003.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Pueblo of Laguna hereby adopts the following: [TEXT OF ORDINANCE]

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